

Administrative Office of the Courts

Chief Justice Christine M. Durham
Utah Supreme Court
Chair, Utah Judicial Council

MEMORANDUM

Daniel J. Becker
State Court Administrator
Myron K. March
Deputy Court Administrator

To: Heather Mackenzie-Campbell, Audit Manager

From: Brent Johnson, General Counsel

Re: Prorating Security Surcharge

Date: March 20, 2006

This memorandum is in response to your e-mail dated March 16, 2006, requesting an opinion on whether the case management system used by a justice court should be programmed to prorate the security surcharge as payments are received. After reviewing the statute, it is my opinion that the case management system should be programmed to prorate. If this is onerous to the justice courts, they should either seek a legislative change to allow them not to prorate, or seek legislative or other funding to help them comply.

Utah Code Ann. § 78-5-116.5 provides for the security surcharge. Subsection (2) states that “the security surcharge shall be collected and distributed pro rata with any fine collected.” The language is mandatory and there are no exceptions. The Judicial Council and our office do not have authority to grant a justice court a waiver from the requirements of the statute. Therefore, a justice court must either comply with the statute or seek a statutory change.

Please let me know if you have any questions about this.